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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/002,155    12/31/97    BERMAN    M    13023-1-0010

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QM11/0901

EXAMINER

FLEMING, D

ART UNIT

PAPER NUMBER

3712

DATE MAILED:

09/01/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/002,155**

Applicant(s)  
**Margo Berman**

Examiner  
**David Fleming**

Group Art Unit  
**3712**



☒ Responsive to communication(s) filed on Dec 31, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-9 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-9 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Double Patenting***

1. Applicant is advised that should claim 8 be found allowable, claim 9 will be rejected under 35 U.S.C. 101 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to reject the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zelmer.

Applicant claims a system of teaching comprising a plurality of 3 types of cards with words.

Terms used by the applicant, "principle cards", "strategy cards", "principle word", "strategy word", "instructional card" and "tactic" are not descriptive enough to further limit the claims. No distinction is being made between "principle cards", "strategy cards" and "instructional cards"--

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they are being interpreted as “cards”. No distinction is being made between “principle word” and “strategy word”-- they are being interpreted as “word”. Applicant’s use of the word “tactic” does not further define or describe the phrase. The word “tactic” is taken to mean a “phrase”.

Zelmer teaches a plurality of sets of cards with word definitions, directions, or vocabulary-related questions and answers thereon. One skilled in the art at the time of invention would have known the types of information that could be written on cards and would have chosen specific information based on the material he or she wishes to convey and the manner in which it is to be conveyed. It is essentially a matter of design choice the specific words used and the location on the cards.

4. Claim 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zelmer in view of Allain as applied to claim 1 above . Zelmer does not mention the use of color-coding. Allain teaches the well-known use of color-coded cards to aid in grouping. It would be obvious to use color-coding on Zelmer’s cards to better emphasize the groupings.

5. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zelmer in view of Allain as applied to claim 5 above, and further in view of Erwin.

Erwin teaches the well-known use of pictures on a card to further convey meaning. It would be obvious to one skilled in the art to introduce Erwin pictures on the Zelmer cards in order to more efficiently convey the information. Regarding claim 7, “explanatory text” and directive text” are not descriptive enough to further limit the text and are therefore interpreted as “text”. It is a matter of design choice the specific text and words used. Regarding claim 8, the use of

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highlighting is well-known and is a matter of design choice. Claim 9 is a duplicate of claim 8 and is treated similarly.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Fleming whose telephone number is (703) 308-8565.

  
**Kien T. Nguyen**  
Primary Examiner

DF

August 26, 1998